IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

No. 8364

NG FOOK,

Appellant

vs.

MARIE A. PROCTOR, as United States Commissioner of Immigration at the Port of Seattle,

Appellee

Upon Appeal from the District Court of the United States
For the Western District of Washington,
Northern Division

HONORABLE JOHN C. BOWEN, *Judge*

BRIEF OF APPELLEE

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BALLARD NEWS PUBLISHING COMPANY

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BRIEF OF APPELLEE

STATEMENT OF THE CASE

The appellant, NG FOOK, admits that he is a full blood person of the Chinese race and that he was born in China. He arrived from China at Seattle on February 1, 1936, and applied for admission into the United States as a citizen thereof by virtue of the claim that he was a foreign-born son of a citizen of this country. He failed to reasonably establish his claim and his application was denied by a

board of Special Inquiry. On appeal to the Secretary of Labor, Washington, D. C., the excluding decision was affirmed. Thereafter, a petition for a Writ of Habeas Corpus was filed in the District Court for the Western District of Washington, Northern Division. The case now comes before this Court on appeal from the order of the District Court denying said petition.

According to the record testimony, the appellant was born in Ong Bing village, China, on September 19, 1920, and continued to reside in China until 1936. He says that NG MING YIN is the name of his father.

NG MING YIN says that he was born in Ong Bing village, China, on November 3, 1902. He came direct from China to San Francisco, arriving July 25, 1914, and was later admitted as a citizen, son of NG FUN, and has since been recognized by the Immigration Service as a citizen of this country.

NG FUN, the alleged grandfather of appellant is reported to have died in China. He claimed birth in Hawaii on August 13, 1885, and at various times testified that in company with his parents and other members of his family he left Hawaii in either 1891 or 1892, and that his parents never returned to Hawaii or American territory. He arrived from China

at Honolulu on May 12, 1899, and was later admitted into the United States.

ARGUMENT

On the citizenship phase of this case the real issue is whether NG FUN was ever a de jure citizen of the United States. If he was not a citizen of the United States no foreign born child of his could ever be a citizen of this country. This is fundamental and it is not deemed necessary to quote the law or any authority in support thereof.

The government of the Hawaiian Islands was a kingdom for many years prior to January 16, 1893, when Queen Liliuokalani was deposed. A provisional government was established on January 17, 1893, and the Islands remained under the provisional government until the Republic of Hawaii was proclaimed on July 4, 1894.

Article 17 of the Constitution of Hawaii, adopted July 4, 1894, reads:

> "All persons born or naturalized in the Hawaiian Islands, and subject to the jurisdiction of the Republic, are citizens thereof."

The phrase "and subject to the jurisdiction of the Republic" was inserted in the Constitutional pro-

vision for some definite and substantial reason and unquestionably means what it says.

The term "subject to the jurisdiction" with reference to citizenship under the 14th Amendment to the Constitution of the United States, was defined by Justice Field in *Re Look Tin Sing*, 21 Fed. 905, Circuit Court, California, 1884, as "They alone are subject to the jurisdiction of the United States who are within their dominions and under the protection of their laws, and with the consequent obligation to obey them when obedience can be rendered; and only those subject by their birth or naturalization are within the terms of the amendment."

In *Elk vs. Wilkins*, 112 U.S. P. 102, the Supreme Court said:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof. The evident meaning of these last words is, not merely subject in some respect or degree, to the jurisdiction of the United States, but completely subject to their political jurisdiction and owes them direct and immediate allegiance."

And in *Lem Moon Sing vs. United States*, 158 U.S. 538, 15 Sup. Ct., page 971:

> "The words of the statute are broad and include "every case" of an alien, at least every Chinese alien, who at the time of its passage is out of this country, no matter for what reason,

> and seeks to come back. * * * While he lawfully remains here he is entitled to the benefit of the guarantees of life, liberty, and property secured by the constitution to all persons, of whatever race, within the jurisdiction of the United States. * * * But when he has voluntarily gone from the country and is beyond its jurisdiction, being an alien, he cannot re-enter the United States in violation of the will of the government, as expressed in enactments of the law-making power."

In *United States vs. Wong Kim Ark*, 169 U.S. 649, the term under discussion means "within the limits and under the jurisdiction of the United States."

> "The domicile of an infant is the domicile of the father, if living, and if he is dead it is the domicile of the mother." *Lamar vs. Micou*, 112, U.S. 460 (1884).

"An infant cannot choose a residence." In *re Thorne*, 148 N.E. 630.

It is undisputed that NG FUN was not residing in the Hawaiian Islands at any time between 1891 and 1892 and May 12, 1899. Therefore, he was not subject to the jurisdiction of Hawaii and consequently did not and could not become a citizen of the Republic of Hawaii under the Constitution of Hawaii of July 4, 1894.

The Act of April 30, 1900, Section 4 (8 U.S.C.A. 4) reads:

> "All persons who were citizens of the Republic of Hawaii on August 12, 1898, are declared to be citizens of the United States."

It is certain that NG FUN, not being a citizen of the Republic of Hawaii, did not derive American citizenship under the Act of April 30, 1900, and he did not begin to reside in the Territory of Hawaii until May 12, 1899. There is no law under which NG FUN could have derived American citizenship. It naturally follows that if NG FUN was never a citizen of the United States, his foreign-born son NG MING YIN is not a citizen of the United States, and likewise the appellant, born in China, could not derive American citizenship through an alien father.

Section 1109, Civil Laws of Hawaii in effect in 1896 and compiled in 1897, is quoted in full:

> "The common law of England, as ascertained by English and American decisions, is hereby declared to be the common law of the Hawaiian Islands in all cases, except as otherwise expressly provided by the Hawaiian Constitution or laws, or fixed by Hawaiian judicial precedent, or established by Hawaiian national usage, provided, however, that no person shall be subject to criminal proceedings except as provided by the Hawaiian laws."

It is immaterial that this law has been amended since annexation, as is urged on page 8 of appellant's brief, for the reason that the citizenship of NG

FUN is not determinable under the amendment. Citizenship rights and privileges created by the laws of the United States are not retroactive, unless expressly provided for. *Mock Gum Ying vs. Cahill*, 81 Fed. (2) 940 CCA9. Under the common law of England and the United States a person is a citizen of the country where born, and such person can only acquire citizenship in another country under a law of the other country. We quote from *Weedin vs. Chin Bow*, 274 U.S. 657, 47 Sup. Ct., p. 773:

> "The very learned and useful opinion of Mr. Justice Gray, speaking for the court in *United States vs. Wong Kim Ark*, 169, U. S. 649, 18 S. Ct. 456, 42 L.Ed. 890, establishes that at common law in England and the United States the rule with respect to nationality was that of the *jus soli*, that birth within the limits of the jurisdiction of the Crown, and of the United States, as the successor of the Crown, fixed nationality, and there could be no change in this rule of law except by statute; * * *."

The appellant cites *United States vs. Ching Tai Sai*, I Hawaii 118. This opinion relates to two boys who were born in the Kingdom of Hawaii. They were defendants in deportation proceedings subsequent to annexation and were not applicants for admission. Their father was absent from Hawaii but one year. The opinion admits that the common law of England and the United States that the place of

birth controls citizenship rather than the nationality of the father.

By a joint resolution adopted by Congress, July 7, 1898 (8 U.S.C.A. 293), known as the Newlands Resolution, it was provided:

> "There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States."

Aliens resident in the Hawaiian Islands prior to annextion on August 12, 1898, are subject to deportation for cause after the Islands became American territory. *Tama Miyake vs. United States*, 257 Fed. 732 C.C.A.9.

Section 1993, R. S. (8 U.S.C.A.6):

> "All children born out of the limits and jurisdiction of the United States, whose fathers may be at the time of birth citizens of the United States, are declared to be citizens of the United States; but the right of citizenship shall not descend to children whose fathers never resided in the United States. * * *."

The appellant has no right of American citizenship under this section for the reason his alleged father or grandfather were never citizens of the United States. The Constitution and laws of the United States were extended to the Hawaiian Islands by

the Act of April 30, 1900 (48 U.S.C.A. 495). Section 1993 R. S. is not retroactive. It is inconceivable that a child born in China prior to August 12, 1898, to a Chinese citizen of Hawaii could claim any right under said Section.

Our laws relating to citizenship are restrictive and strictly interpreted when dealing with those of the Chinese race. For instance, the war-time naturalization Act of 1918 provided that any alien who served with the armed forces could be naturalized without filing a declaration of intention and the five-year residence was waived. In construing the Act in *Hidemitsu Toyota vs. United States*, 268 U. S. 402, the Court held that the term "any alien" did not include persons of the Chinese race. On November 13, 1922, the Supreme Court in *Takao Ozawa vs. United States*, 260 U.S. 178, said that the naturalization of Chinese was prohibited since the Act of 1790. And see *Mock Gum Ying vs. Cahill*, 81 Fed. (2) 940 C.C.A.9. In the latter case the applicant for admission claimed to be a child of an American born Chinese mother and an alien Chinese father, married in this country. The applicant did not derive American citizenship through the mother (but could through a citizen father). The excluding decision was sustained. It appears that a brother and a sister were

previously admitted to the United States, and we quote from the same case the following paragraph with special reference to the fact that the alleged father of the appellant was admitted to the United States as a citizen through error or mistake in interpreting the law:

> "The fact that appellant's brother and sister, also born in China, were admitted to the United States as citizens, proves nothing, except that, in admitting them, the immigration authorities made a mistake which, if possible, should be corrected, not repeated."

The general policy of Congress is expressed in the Act of July 1, 1902, No. 4, C. 1369, 32 Stat. 691, 692, when it declared that all inhabitants continuing to reside in the Philippine Islands who were Spanish subjects on April 11, 1899, and then resided in the Islands and their *children born subsequent thereto*, shall be deemed and held to be citizens of the Islands, but not of the United States. This provision excludes foreign born non-resident children born prior to April 11, 1899. In the absence of any law to the contrary we must presume that it was the intention of Congress in assuming jurisdiction over the Hawaiian Islands to limit citizenship to those only who were bona fide citizens of the Islands on August 12, 1898. The Constitution of Hawaii,

supra, does not declare non-resident foreign born children to be citizens, and the Act of April 30, 1900, supra, does not enlarge the scope of the Constitution of Hawaii to include foreign-born non-resident children, friends or relatives.

The attention of the Court is invited to the case of Lum Sing who was naturalized in the Kingdom of Hawaii on August 3, 1892, and as he lived continuously in the Islands had the same citizenship status as native Chinese who acquired citizenship under the Constitution of the Republic of Hawaii and the Act of April 30, 1900. In 1910 his two alleged sons born in China prior to 1898 applied for admission at Honolulu. In considering the merits of the case the Court said:

> "It is clear, therefore, that, even if Lum Sing was naturalized as he claims to have been, and if the petitioners are in fact his sons, they are not citizens of the United States. They were never citizens of the Kingdom of Hawaii, for there was no provision in the law under which Lum Sing claims to have been naturalized by which Hawaiian citizenship acquired by naturalization would have extended to non-resident alien children. Nor were the petitioners made citizens by the terms of Section 4 of the organic act (31 Stat. L. 141)." In *re Koon Ko*, 3 Dst. Ct. Hawaii, 623 (8 U.S.C.A.4).

Under the Constitution of the Republic of Hawaii of July 4, 1894, the political status of a Chinese

born or naturalized in Hawaii prior to July 4, 1894, is the same. Such Chinese continuing to reside in the Islands and those born in the Islands during the Republic became citizens of the United States on August 12, 1898.

The law feature of this case is similar to *Wong Foong vs. United States*, 69 Fed. (2) 681 C.C.A.9, and believed to be controlling here. The alleged father, Wong Ping, was naturalized in the Kingdom of Hawaii on August 29, 1892. On May 11, 1893, he departed for China on a temporary visit and returned to Honolulu on July 9, 1900, and was admitted to the mainland at San Francisco in 1907 as an American citizen. He was not subject to the jurisdiction of the Republic for the reason he was residing in China during the life of the Republic, and, therefore, did not become a citizen of the Republic of Hawaii under the Constitution of Hawaii of July 4, 1894, and consequently did not become a citizen of the United States at time of annexation on August 12, 1898, under the Act of April 30, 1900 (8 U.S.C.A. 4). The Court held that Wong Foong was not a citizen of the United States and affirmed the exclusion order. The opinion cites *Betty vs. Day*, 23 Fed. (2) 489 C.C.A.2 and *United States vs. Corsi*, 55 Fed. (2) 941 C.C.A.2, in re minor children of the Caucasian

race claiming American citizenship through the naturalization of their fathers. The cited cases could have no application to Chinese as the naturalization of Chinese is prohibited. To be a citizen of the United States, a Chinese must be born under the American flag, or if foreign born must be at birth a child of a citizen of the United States who has previously resided in the United States. *Weedin vs. Chin Bow*, 274 U.S. 657, 47 Sup. Ct., 772. The citizenship of foreign born Chinese seeking admission to this country as children of American citizen Chinese is not determined by age or minority.

It is here contended that the appellant's alleged father, NG MING YIN, was never a citizen of the United States and that his admission as a citizen by the Immigration authorities was and is erroneous and contrary to law. Such admission is not an adjudication and is not binding on the government now.

Kaoru Yamataya vs. Fisher, 189 U.S. 86,
White vs. Chan Wy Sheung, 270 Fed. 765 CCA9,
Weedin vs. Ng Bin Fong, 24 Fed. (2) 821 CCA9,
Jung Yen Loy vs. Cahill, 81, Fed. (2) 809 CCA9,
Mock Gum Ying vs. Cahill, 81 Fed. (2) 940 CCA9.

The claim of the alleged grandfather of appellant, NG FUN, that he was born in Hawaii, or that

he departed therefrom when a boy, is seriously doubted. Exhibit 10072/3 contains a copy of birth certificate presented by NG FUN in 1905. The said certificate is *nunc pro tunc* in form and was issued by the Secretary of the Territory of Hawaii under date of September 4, 1901, No. 837, and states that NG FUN was born in the Hawaiian Islands on August 13, 1885. A similar certificate was knocked out in *Lee Leong vs. United States*, 217 Fed. 48, C.C.A.9, and it is apparent that the issuance of such a certificate was a technical violation of law, from which we quote:

> " * * * Provided, however, that the registrar shall keep a separate record of all births reported later than six (6) months after the date of said birth, which record shall not be admissible as evidence of any statement therein made, nor shall any certified copy of such record or any part thereof be furnished by the registrar." Section 1215 Hawaiian Laws, 1896, C. 50, S. 5.

Exhibit 31075/4-15 contains a report of Immigrant Inspector J. L. Milligan, dated at Honolulu August 12, 1914, in re record of landings and departures of NG FUN, with the information that no record of his first alleged departure could be found, which indicates that NG FUN was never in the Islands prior to May 12, 1899, at which time he arrived from China.

RELATIONSHIP. NG FUN, the alleged grandfather claims to have been born on August 13, 1885. NK MING YIN says that he was born in China on November 3, 1902, and the appellant claims to have been born in China on September 19, 1920. If the testimony is true it means that NG FUN must have been married before he was 16 years and 9 months old. NG MING YIN, the alleged father of appellant, claims five sons and no daughters, which is quite common in this class of cases, thus laying the foundation to bring Chinese boys to this country in the future, and says that he never heard of a daughter being born in China to an American citizen Chinese.

Exhibit 12016/949 contains the record of NG AH PARK who applied for admission in 1916. He was found to be fraudulent and was excluded. NG FUN, the alleged grandfather of appellant, testified that NG AH PARK was his brother. NG FUN is discredited. *Ngai Kwan Ying vs. Nagle*, 62 Fed. (2) 166 C.C.A.9.

Exhibit 31075/4-13 is the record of NG MING YIN, alleged father of the appellant, originally admitted to this country in 1914. He has since made three trips China, and returned to this country the last time December 1, 1931. Both he and the ap-

pellant claim birth in Ong Bing village, China, and NG MING YIN says that while in China he always lived in the same house with the appellant. Therefore, both should be familiar with their alleged home village, which they say consists of nine houses and a social hall.

The appellant says that during his father's last trip to China he smoked a water pipe, using Chinese tobacco, several times a day. The alleged father was absent from the United States from March 29, 1929, to December 1, 1931, and says that he never smoked a cigar, cigarette, pipe, anywhere and that he did not smoke anything when home last. This discrepancy is satisfactory evidence that the appellant and his alleged father did not live in the same house as claimed.

The appellant and his alleged father are in agreement that there are nine houses in their alleged village, three on each row, and a social hall on a contiguous row. The applicant says there is no space between the houses on any of the rows; and upon re-examination testified that it is impossible to walk between the houses and that no person could insert a lead pencil between any of the houses on any row of his village. The alleged father was asked if there was any space between the houses on each

row and indicated that there was a space of four feet between the houses and testified that he could walk between the houses on each row. The appellant and his alleged father described the location of each building in the village through the use of blocks, and in addition both testified concerning the location of the buildings and whether there was a space between the houses on each row and the appellant was re-examined following the testimony of his alleged father. The test was fair and the principals were given full opportunity to agree. This discrepancy is clear cut and is, per se, fatal and is sufficient to show that the relationship claimed is false. *Hong Tong Kwong vs. Nagle*, 299 Fed. 588 C.C.A.9; *Weedin vs. Chin Share Jung*, 62 Fed. (2) 569 C.C.A.9.

The appellant says that there is one photograph, about 18 x 20", framed, of each of his parents, made about ten years ago, kept in the sitting room of his house. On re-examination he stated that there was a photograph of his mother in his house which had been there a long time and was of the same size as his father's photograph. The alleged father says there is a photograph of himself kept in his house but that there never was a photograph of his wife kept in his house. Such a discrepancy was held material in *Hom*

Dong Wah vs. Weedin, 24 Fed. (2) 774 C.C.A.9; *Haff vs. Der Yam Min*, 68 Fed. (2) 626 C.C.A.9.

Exhibits 149-450, 165-14 and 165-788 contain record of examinations of NG LEONG, who arrived January 12, 1931, NG FOO, who arrived October 15, 1931, and NG QUAY, who arrived in this country July 21, 1932, all being admitted as sons of NG YING, alleged brother of appellant's alleged grandfather. The said three applicants claimed birth in Ong Bing village in 1917, 1918, 1920, respectively, and described the village precisely as does the appellant, stated they attended school in the home village and that they lived in the second house on the third row. NG QUAY testified in 1932 that NG MING YIN (appellant's alleged father) was living in the United States and never saw him. NG FOO and NG LEONG testified in 1931 that NG MING YIN was not married. The appellant and his alleged father deny all knowledge of the said three boys, and the appellant who is about the same age as the three boys, and should have attended school with them, if the relationship were bona fide, says that no school was conducted in his village. If NG YING and his three sons testified truthfully it naturally follows that the appellant is not a son of his alleged father. The record shows that NG YING and NG

FUN claimed to be blood brothers, and this claim of relationship was not concocted by the Immigration authorities as is stated on page 23 of appellant's brief. If they are brothers as they claimed to be all their children are related by blood. It was held in *United States vs. Eng Sauk Lun*, 67 Fed. (2) 307 C.C.A.10 that persons related by blood are competent to testify concerning the birth and history of a relative.

The appellant, in attempting to destroy the testimony of NG YING and his three sons, beginning on page 23 of his brief says that the records NG YING and his three sons are no part of the record but later concedes that the said records are a part of the present record, and it is alleged that the three boys moved from Ong Bing villege a long time ago to a large city in China before coming to the United States; that he has had no opportunity to examine them; and that their testimony cannot be fairly used now. The three boys are about the same age as the appellant and since they claim to have lived in Ong Bing village and attended school in the same village before coming to this country in 1931 and 1932 they should have been in a position to know the complete family history of the appellant, — if the appellant lived in the same village, and he did claim. If the

three boys or their father were called to testify in this proceedings there is no reason to believe they would contradict their previous testimony. If the appellant or his counsel were not satisfied with the status of the record it was their duty to have the case reopened for the reception of testimony of any witnesses desired. *Fong On vs. Day*, 54 Fed. (2) 990 C.C.A.2; *Li Bing Sun vs. Nagle*, 56 Fed. (2) 1000 C.C.A.9. Strict rules of evidence are not applicable to Immigration hearings and the administrative authorities are entitled to "receive and determine the questions before them upon any evidence that seems to them worthy of credit." *Fong Kong vs. Nagle*, 57 Fed. (2) 138 C.C.A.9. In *Tang Tun vs. Edsell*, 223 U.S. 673, 32 Sup. Ct. p. 363, in considering the right of the Immigration authorities to receive in evidence other records of Chinese remotely related said:

> "Of these the Secretary might at all times take cognizance, and it would be extraordinary indeed to impute bad faith or improper conduct to the executive officers because they examined the records, or acquainted themselves with former official action."

In practically every case of a Chinese applicant for admission there is a multitude of agreement between the witnesses. Regardless of how well the

fraudulent cases are coached one or more substantial discrepancies is sufficient to explode the relationship claimed. See *Haff vs. Der Yam Min*, 68 Fed. (2) 626 C.C.A.9; *Wong Shong Been vs. Proctor*, 79 Fed. (2) 881 C.C.A.9.

There is evidence of considerable fraud in this case, some of which is traceable to the appellant's alleged grandfather when he testified for and attempted to land in this country an alien Chinese claimed to be a brother. The scriptures teaches us that the iniquities of the father descends to future generations. The appellant and his alleged father are not in a position to demand that the Immigration authorities believe them against the prior testimony of NG YING and his three admitted sons.

LAW AND AUTHORITIES

Section 23 of the Immigration Act of 1924 (8 U.S.C.A. 221) places the burden of proof upon applicants of all classes for admission into the United States. Additionally, under the Chinese Exclusion laws Chinese applicants are required to prove right to enter, and the Immigration officials are not required to show they are not admissible. *Mui Sam Hun vs. United States*, 78 Fed. (2) 615 C.C.A.9; *Lee Bow Sing vs. Proctor*, 83 Fed. (2) 546 C.C.A.9.

Section 17 of the Immigration Act of February 5, 1917, (8 U.S.C.A. 153) provides that Boards of Special Inquiry shall have authority to determine whether applicants for admission shall be allowed to land or shall be deported and that

> " * * * In every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of a Board of special inquiry adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Labor; * * *."

The law in such cases is well settled. Findings of fact by the administrative officers, if supported by any substantial evidence, after a fair hearing, are final and binding on the courts, and in such cases no issue of law is raised before the court. *Dea Ton vs. Ward*, 82 Fed. (2) 223 C.C.A.1; *Jung Yen Loy vs. Cahill*, 81 Fed. (2) 809 C.C.A.9.

> "In considering the evidence, it is not sufficient that we might have reached a different decision." *Lum Sha You vs. United States*, 82 Fed. (2) 83 C.C.A.9.

> "Even if we were convinced that the Board's decision was wrong, if it were shown that they had not acted arbitrarily, but had reached their conclusions after a fair consideration of all the facts presented, we should have no recourse. 'The denial of a fair hearing cannot be estab-

lished by proving that the decision was wrong.' " *Jung Yen Loy vs. Cahill*, 81 Fed. (2) 809 C.C.A9.

The immigration officers are exclusive judges of weight of testimony and credibility of witnesses appearing before them, and there is no indication of unfairness if a witness is not believed. *Mui Sam Hun vs. United States*, 78 Fed. (2) 612 C.C.A.9; *Jew Hong Sing vs. Tillinghast*, 35 Fed. (2) 559 C.C.A.1.

CONCLUSION

The gist of the appellant's claim to American citizenship is based on the assumption that his alleged grandfather, NG FUN, was born in the Hawaiian Islands, became a citizen of the Republic of Hawaii and later of the United States, and that his alleged father NG MING YIN born in China derived American citizenship through the grandfather. It is certain that the alleged grandfather was not subject to the jurisdiction of Hawaii when the Islands went under the jurisdiction of the Republic of Hawaii on July 4, 1894, and there is no statutory authority under which he was entitled to claim American citizenship. His alleged descendants born in China are aliens. Even if NG FUN and his alleged son NG MING YIN were held to be citizens of the United States the discrepancies are sufficient to prove

that the appellant is not a son of NG MING YIN. The appellant was given a fair hearing, and the hearing was lawfully conducted. No evidence offered by the appellant was omitted. It is not shown that the hearing was unfair or improperly conducted or that there was any abuse of the discretion vested in the Immigration authorities, or that he was deprived of any of his rights to due process of law. Therefore, the excluding decision is final and conclusive insofar as questions of fact are concerned. The law questions of citizenship is answered by *Wong Foong vs. United States*, 69 Fed. (2) 681 C.C.A.9. The District Court did not commit error in denying the Writ of Habeas Corpus and its judgment should be affirmed.

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